



**DEPARTMENT OF THE ARMY**  
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**JUL 16 2015**

The Honorable Jay Inslee  
Governor of Washington  
P.O. Box 40002  
Olympia, Washington 98504-0002

Dear Governor Inslee:

The National Marine Fisheries Service (NMFS), in its role as our partners in the Puget Sound Federal Caucus, as well as in its role in developing the Federal response to the Treaty Rights at Risk Initiative of the Northwest Treaty Tribes, has contacted me regarding the upper boundary of the Seattle District's tidal jurisdiction for Clean Water Act (CWA) Section 404 permits. We have also been contacted by the legal representatives of three Washington non-profit groups on this issue, to include Sound Action, Friends of the San Juans, and the Washington Environmental Council.

For decades, the Seattle District has relied on the mean reach of the higher of the two high tides of each day of the year (mean higher high water, or MHHW) to demarcate the landward extent of our CWA section 404 jurisdiction. Mr. William Stelle, Regional Administrator of NMFS Western Region, has asked whether that line is the most appropriate jurisdictional boundary available, or if the highest astronomical tide (HAT) should be used instead. For some basic context, consider that HAT elevations range from 1.3 to 2.5 feet higher than MHHW. Meanwhile, spring tides are approximately 1 foot higher than MHHW. Any adjustment would potentially impact the regulation of Puget Sound and Washington coastal tidelands. The motivating factor for NMFS and the concerned groups is the value of the habitat at issue, which they point out, is relied upon ESA-listed salmon and other species.

As we continue to review this issue, and commence a dialogue – which will also include the Environmental Protection Agency Region 10, NMFS and others – we will greatly value your input. Therefore, I request our staffs collaborate to receive your input in the next 90 days. Considering the potential implications on Washingtonians as well as important tidelands and resources within the state, our intention is to conduct an open and transparent discussion of this important issue. I look forward having that discussion with you.

Sincerely,

John S. Kem  
Brigadier General, US Army  
Division Commander

